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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,978	11/12/2003	Richard Baron	AVERP3423USB	7346

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EXAMINER

TARAZANO, DONALD LAWRENCE

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,978

Applicant(s)

BARON ET AL.

Examiner

D. Lawrence Tarazano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3, 4, 18-32, and 34-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40-47 is/are allowed.
- 6) ☒ Claim(s) 3, 4, 18-32 and 34-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. In view of newly discovered art, the examiner has withdrawn the finality of the prior office action. Claims 40-47 are allowable, Claims 30-32, and 34-49 are rejected.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 3, 18, 19, 20, 23, 24, 25, 31, 32, 34, 35, and 36 are rejected under 35 U.S.C. 102(b) as being rejected by Derwent Document number 1983-848572 (RD-23619A).

4. The adhesion between co-extruded polyester films and ethylene-vinyl alcohol copolymer films is improved with an intermediate bonding layer comprising a blend of ethylene vinyl acetate copolymer (EVA) and ethylene-vinyl alcohol copolymer, or a partially hydrolyzed terpolymer of ethylene, (meth)acrylic acid and vinyl acetate. Pref. in the blend the EVA copolymer is acid-modified and approximately equal proportions of EVA and EVOH polymers are used.

5. The adhesive compositions are useful as tie layers in coextruded films and of polyesters such as PET and high barrier EVOH to increase the bond strength between the layers. The products may be in the form of flat film for packaging or e.g. as pipe for the production of

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parisons for blow molding into bottles having good gas barrier properties e.g. for bottling beer.

The adhesive layer does not reduce the mechanical properties of the combined films.

6. Regarding claim 36, the breadth of the ratio of the claimed materials is so large that the mere recitation of the material would be sufficient to envisage the materials within the claimed range

7. Regarding claims 34+, a bottle or a pipe as taught is an article for fluid transport.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4, 21, 22, 25-30 and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Derwent Document number 1983-848572 (RD-23619A) as discussed above.

10. Regarding claims 4, 21 and 22, it would have been obvious to one having ordinary skill in the art to have varied the thickness of the films depending on the end use and to biaxially orient / heat stabilize them since this is conventionally done to make strong PET packaging films.

11. Regarding claim 30, it would have been obvious to one having ordinary skill in the art to have varied the thickness of the adhesive layer depending on the amount of adhesive needed to keep the layers together.

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12. Regarding claim 25, the prior art teaches ethylene vinyl alcohol copolymer and the applicants claim polyvinyl alcohol. It is the examiners position that one could be used for the other as being functionally equivalent materials, especially when the resin had low ethylene content.

13. Regarding claims 26-29, 37-39, surfactants are used in the polymerization of EVA materials (as stated previously in the last office action), since the polymer is typically polymerized in aqueous media, it would have been obvious to one having ordinary skill in the art to have added surfactants for this purpose. One working in the art would be able to choose appropriate surfactants. The examiner takes the position that surfactants would remain after the polymer was collected. The same is true for defoamers.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Lawrence Tarazano whose telephone number is (571)-272-1515. The examiner can normally be reached on 8:30 to 6:00 (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571)-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Lawrence Tarazano
Primary Examiner
Art Unit 1773

A handwritten signature in black ink, appearing to be 'DT' or similar initials, enclosed within a curved, loop-like shape.